

## REMARKS/ARGUMENTS

In the claims, Claims 1-12 and 14-33 are pending in the above-referenced application, Claims 25 and 30 are currently amended.

Claims 25-27 and 30-33 were rejected by the Examiner under 35 U.S.C. §112 as being indefinite. The Applicants traverse this rejection in regards to Claim 30. However, claims 25 and 30 are amended to provide improved antecedent basis for the terms pointed out by the Examiner. These amendments are shown in the Listing of Claims supra.

Claims 1-12 and 14-17 were rejected under 35 U.S.C. §103 in view of Dedrick (U.S. Patent No. 5,724,521) in further view of Angles et al. (U.S. Patent No. 6,385,592 B1) in Paper #5 and these rejections were maintained by the Examiner. Further, Claims 1-12, 14-24, and 28-33 were rejected under 35 U.S.C. §103 in view of Dedrick, Angles et al. and Kurtzman, II et al. (U.S. Patent No. 6,144,944). Applicants respectively traverse the Examiner's rejection of claims 1-12, 14-24, and 28-33 under 35 U.S.C. §103.

### *Regarding Claim 1:*

Claim 1 was previously amended responsive to the Final Office Action of June 13, 2003. The amendment included further characterization of the "marketing attribute" as being "configured to describe what marketing objects can be received by the marketing object container." This added restriction was intended to address the Examiner's concerns by further distinguishing marketing attributes from other types of attributes associated with web pages and web page visitors.

In the current office action the Examiner correctly notes that "[n]either Dedrick nor Angles et al. explicitly disclose selecting, by the first party, a marketing attribute configured to describe what marketing objects can be received by the marketing object container" (page 7 lines

13-15). However, the Examiner cites Kurtzman, II et al. as disclosing material “which encompasses applicants’ claimed aspect” (page 7 line 19 – page 8 line 1). Specifically the Applicants are directed to col. 4 lines 32-37 of Kurtzman, II et al. that state:

5           “The affinity of an attribute to an object is determined by comparing the attribute to an affinity criterion associated with the object. For instance, a user’s demographic attribute would be compared to an advertisement’s demographic criterion in order to measure the demographic affinity of the user to the advertisement.”

10       The Applicants respectfully traverse the Examiner’s contention that this teaches, “a marketing attribute configured to describe what marketing objects can be received by the marketing object container.” Kurtzman, II et al. teaches an attribute that is associated with a user *not* associated with a *marketing object container* and is, therefore, distinguished from the claimed marketing attribute. For example, at col. 4 line 34 the attribute taught by Kurtzman, II et al. is referred to as “a user’s demographic attribute.” The attribute taught by Kurtzman, II et al. describes  
15       characteristics of a user not of a marketing object container and is used to determine an affinity criterion for matching a specific advertisement (object) with a specific user. As such, the attribute of Kurtzman, II et al. is used to determine aspects of a relationship between the advertisement and the user. These aspects are not related to a specific marketing object container. While the user attribute of Kurtzman, II et al. may eventually be used in selecting an  
20       advertisement to display, they describe characteristics of a user and do not “*describe* what marketing objects *can be received* by the marketing object container.”

      In contrast, Claim 1 recites “a marketing attribute configured to describe what marketing objects can be received by the *marketing object container*.” This claimed marketing attribute is associated with a marketing object container *not* with a specific user, and is configured to  
25       describe aspects of the marketing object container *not* features of a user. These fundamental differences distinguish the claimed marketing attribute from the user attributes of Kurtzman, II et

al. and Dedrick. Applicants wish to note that this point has been previously argued with respect to Dedrick. However, the Examiner has not explained how attributes of a user and the claimed marketing attributes could be considered equivalent.

The claimed marketing attribute is distinguished from a user attribute in both form and function. For example, the claimed marketing attribute is configured to describe aspects of a *marketing container*, and these aspects would not normally be associated with a user or with a specific advertisement. The Examiner is referred to Claims 19, 23 and 24 for specific examples of functions of the claimed marketing attribute that would not be associated with a user. Thus, a user attribute, such as found in Kurtzman, II et al. is not the same as the claimed “marketing attribute” of the invention.

As stated above, the differences between the claimed marketing attribute and a user attribute have been pointed out previously with respect to Dedrick. See, for example, page 12 of the Amendment filed August 13, 2003, or the bottom of page 5 of the response filed August 29, 2002. On page 12 of the August 13th amendment the amendments to Claim 1 were specifically characterized as:

intended to address the Examiner’s concerns by further distinguishing marketing attributes from other types of attributes associated with web pages and web page visitors. Specifically, the amendment is configured to distinguish marketing attributes characterizing a marketing container from “characteristics which correspond to individual end users” as discussed in the Abstract of Dedrick and cited by the Examiner.

While the Examiner appears to have understood this argument when applied to Dedrick, the argument does not appear to have been considered with respect to Kurtzman, II et al. The attributes of Kurtzman, II et al. are distinguished from the limitations of Claim 1 for the same reasons that the attributes of Dedrick are distinguished. The claimed marketing attribute is

substantially different than a user attribute, such as those user attributes taught by Dedrick or Kurtzman, II et al.

Furthermore, as pointed out above, the attributes of Kurtzman, II et al. characterize a user and are used to determine a relationship between a user and an advertisement. Neither this  
5 characterization nor this relationship concern a marketing object container. The marketing attributes of Claim 1 are configured to describe aspects of a marketing object container and are thus distinguished from the attributes of Kurtzman, II et al.

To support the rejection the Examiner cites col. 4 lines 32-37 of Kurtzman, II et al. that state:

10 “The affinity of an attribute to an *object* is determined by comparing the attribute to an affinity criterion associated with the *object*. For instance, a user’s demographic attribute would be compared to *an advertisement’s* demographic criterion in order to measure the demographic affinity of the user to *the advertisement*.” (Emphasis added.)

15 In the first sentence, an “object” has an associated “affinity criterion.” This sentence may be misinterpreted as describing a characterization of a marketing object container, if the referenced “object” were a marketing object container. However, the “object” referred to in the cited text is taught only to be an advertisement *not* a marketing object container. In the second sentence, an example is given that includes an advertisement (the object) having an associated demographic  
20 criterion (the affinity criterion), as indicated by the text “an advertisement’s demographic criterion.” Thus, the “object” referred to above is a specific advertisement, and is not equivalent to the marketing object container of Claim 1 because the marketing object container is distinguished from a specific advertisement. The cited text, therefore, does not teach a characterization of a marketing object container, a relationship concerning a marketing object  
25 container, or a “marketing attribute configure to describe what marketing objects can be received by the marketing object container.”

Further, the marketing attribute of Claim 1 is configured to describe an aspect of a marketing object container. There are no attributes in Kurtzman, II et al. taught to characterize specific marketing object containers, much less the claimed marketing attribute “*configured to describe what marketing objects can be received by the marketing object container.*” The

5 Applicants respectfully request that the Examiner specifically identify where these teachings occur in Kurtzman, II et al. or allow Claim 1.

In summary, it is the position of the Applicants that none of the teachings of Kurtzman, II et al. are equivalent to “the marketing attribute configured to describe what marketing objects can be received by the marketing object container” as recited in Claim 1. The Applicants,

10 therefore, respectfully request clarification of how the Examiner believes that the user attribute of Kurtzman, II et al. can be equated with “a marketing attribute” as recited in Claim 1. Further, the Applicants request that the Examiner clarify how the further characterization of the marketing attribute as being “*configured to describe what marketing objects can be received by the marketing object container,*” as recited in Claim 1 is taught in Kurtzman, II et al. or allow

15 Claim 1.

On page 8 lines 1-6 of the current office action, the Examiner suggests that modification of the disclosures of Dedrick and Angles et al. according to the teachings of Kurtzman, II et al. would produce a system including “a marketing attribute configured to describe what marketing objects can be received by the marketing object container.” The Applicants traverse this

20 suggestion in view of the substantial differences between Kurtzman, II et al. and the limitations of Claim 1, examples of which are discussed above.

To fulfill the motivation requirement of a prima facie case for rejection under 35 U.S.C. §103, the Examiner states that the combination of Kurtzman, II et al. with Dedrick and Angles et

al. “would have been obvious to one skilled in the art... for the motivation of providing an electronic marketing presentation.” The Applicants respectfully point out that “the motivation of providing an electronic marketing presentation” is vague and, thus, is insufficient for providing an impetus for one skilled in the art to combine specific teachings of Kurtzman, II et al. with  
5 Dedrick and Angles et al. If this vague motivation were sufficient to meet the requirements of a prima facie case of obviousness under §103, then the motivation requirement of this section would be meaningless because “the motivation of providing an electronic marketing presentation” would be broad enough to combine any references in the field of electronic marketing presentations. The Applicants respectfully request that the Examiner specifically  
10 point out teachings of Kurtzman, II et al. that include a marketing attribute configured to describe what marketing objects can be received by the marketing object container and, also, distinctly point out motivation *within the cited art* for combining *these specific teachings* with the other cited references. A vague motivation is also found in the Examiner’s rejection of Claim 32. Similar arguments and requests for clarification, therefore, also apply to Claim 32.

15 The amendment to lines 6 and 7 of Claim 1 made in paper #14 also affects aspects of Claim 1 recited on lines 8 and 9. For example, the “the selected marketing attribute ... associated with the marketing object container” is the same “marketing attribute configured to describe what marketing objects can be received by the marketing object container.” Therefore, the Examiner’s admission on page 7 lines 13-15 of the current office action that Dedrick and  
20 Angles et al. do not disclose “selecting, by the first party, a marketing attribute configured to describe what marketing objects can be received by the marketing object container,” is also an admission that Dedrick and Angles et al., do not teach the limitations of Claim 1 lines 8-9, since there is no selected marketing attribute (having the characteristics recited) to associate.

However, in addressing the limitations recited on lines 8 and 9 of Claim 1 (page 6 line 14 – page 7 line 12 of the current office action), the Examiner *only* depends on Dedrick and Angles et al. (and not Kurtzman, II et al.). The Applicants respectfully point out that the Examiner’s admission means that this dependence is inadequate and the rejection is, therefore, improper.

5 Since the Examiner has not properly considered the effect of the most recent amendments to Claim 1 (as made in paper 14) in the current office action (paper 16), the Applicants request that *the finality of the office action be withdrawn* or that Claims 1-5 be allowed.

*Regarding Claims 4, 5, 9, 10, 15 and 16:*

10 Claims 4, 5, 6, 9, 10, 15 and 16 each include a limitation that a marketing object is *automatically* associated with a second marketing object container. In the current office action the Applicants are directed to the Abstract; col. 4 line 13 - col. 5 line 53; and col. 16 lines 51-58 of Dedrick for teachings of the various aspects of this claim. However, the Applicants are unable to find any teachings in this cited text wherein the marketing object is “*automatically* associated” with a second marketing container. The Applicants request that the Examiner, more specifically, 15 point out which sections of Dedrick are thought by the Examiner to teach association that is automatic. Manual association, such as manually establishing an HTML link, is distinguished from the claimed association by use of the word “automatic.” The Applicants would like further direction as to where these teachings may be found in the cited art, or that Claims 4, 5, 6, 9, 10, 15 and 16 be allowed.

20 Claims 9 and 10 additionally recite specific aspects of the automatic association. Specifically, Claim 9 is dependent on Claim 8 and recites, “wherein associating the marketing attribute with the marketing object container also automatically associates the marketing attribute with the second marketing object container.” Claim 10 is dependent on Claim 8, and recites,

“wherein selecting at least one marketing object for insertion in the marketing object container also automatically associates the at least one marketing object for insertion in the second marketing object container.” The Applicants are unable to find any teaching of these limitations in Dedrick, nor does the Examiner provide guidance to specific sections of Dedrick in which  
5 these teachings may be found. The Applicants respectfully request that the Examiner more specifically indicate those sections of Dedrick believed to teach *automatic* association as further limited in Claims 9 and 10, or allow these claims.

*Regarding Claims 18 and 19:*

In the current office action, the Examiner correctly notes that “[n]either Dedrick, Angles  
10 et al. nor Kurtzman, II et al. explicitly disclose the marketing objects that can be received by the marketing object container include a marketing object of type ad banner, nor the marketing attribute is further configured to characterize the marketing object container as being configured to receive a marketing object having a cross sell feature,” (page 15). The Applicants respectfully point out that this admission precludes a prima facie case under §103 since the combined art is  
15 admitted to not include all limitations of Claims 18 and 19. On this basis, the Applicants respectfully request that these claims be allowed.

On pages 15 and 16 of the current office action the Examiner discusses some of the cited art and suggests, “[t]hese disclosures provide functionality that encompass the claimed aspect of the marketing objects....” The Applicants respectfully requests that the Examiner specifically  
20 point out how “provide functionality” forms a basis for a §103 rejection, particularly when it is admitted that all aspects of the claims are not taught in the cited art. Having the tools to perform a method is not equivalent to teaching that method.

Claim 18 includes further limitations on the *type* of marketing objects that can be received by the marketing object container. Claim 19 includes further limitations on marketing attributes and how they characterize marketing object containers. The Applicants have reviewed the material offered by the Examiner on pages 15 and 16 of the current office action but are unclear as to how the ability of the publisher/advertiser 18 (of Dedrick) to create information in a wide variety of formats teaches or “provides functionality” of the claimed limitations. Specifically, the Applicants are unclear on as to how a system for creating information teaches characterizing a marketing object container, and further, teaching a method by which that marketing object container may be characterized. The Applicants respectfully request further clarification, or that Claims 18 and 19 be allowed.

*Regarding Claims 20 and 21:*

Claim 20 is dependent on Claim 1, and further recites, “selecting a marketing object for display in the marketing object container, the selection being responsive to the marketing attribute.” Claim 21 is dependent on Claim 20, and further recites “wherein the selection is further responsive to a visitor attribute.” The Applicants fail to see how the *consumer variables* of Dedrick col. 5 lines 21-29 teach an action responsive to a *marketing attribute* as recited in Claims 20 and 21. In detailed arguments previously presented the *marketing attribute* of the claimed invention has been adequately distinguished from consumer variables of Dedrick. On these grounds, at least, Claims 20 and 21 should be allowed. These previously presented arguments are found, for example, in the discussion starting with the last paragraph of page 6 of the preliminary amendment filed March 18, 2003.

Further, Claim 21 refers separately to both a marketing attribute and a distinct visitor attribute. The Applicants respectfully point out that the consumer variables of Dedrick, of which

only one type is taught, cannot be equivalent to both of these distinct claim limitations. The Examiner is requested to clarify how the consumer variables of Dedrick are equivalent to both the marketing attribute and visitor attribute of the invention, or allow Claims 20 and 21.

*Regarding Claims 22, 23 and 24:*

5           In the current office action the Examiner suggests that Claim 22 includes the same limitations as Claim 1, and provides no further support for the rejection. However, the Applicants respectfully point out several differences. For example, Claim 1 does not include “to characterize the marketing object container as having a campaign type,” (Claim 22, lines 6 & 7). Differences between Claim 22 and Claim 1 were pointed out to the Examiner in detail on page 10 13 of the Amendment filed August 13th. The current office action is unresponsive because it does not address these differences or address the comments made within the previous response. On these grounds, the Applicants request that the finality of the current office action be withdrawn and Claims 22, 23 and 24 be fully examined or allowed.

          On page 17 of the current office action the Examiner correctly notes that “[n]either 15 Dedrick, Angles et al., nor Kurtzman explicitly disclose the campaign type is a promotion, or the campaign type is an up sell, a sale, or a new product introduction.” The Applicants respectfully point out that this admission precludes a prima facie case under §103 since the combined art is admitted to not include all aspects of Claims 23 and 24. On this basis the Applicants respectfully request that these claims be allowed.

20           This discussion also applies to Claim 30.

*Regarding Claim 25-27:*

          The last two lines of Claim 25 are amended to read: “automatically associating the selected marketing attribute with the first marketing object container.” The Applicants believe

that this amendment should overcome the Examiner's rejection under 112 and places Claims 25-27 in condition for allowance.

*Regarding Claim 28:*

Claim 28 recites many of the limitations discussed elsewhere herein. Furthermore, in the most recent office action the Examiner makes an inference (middle of page 18) that the Applicants do not understand. Specifically, the Applicants seek clarification as to how "selecting a marketing attribute to characterize the marketing object container as having a timing or priority of display of a marketing object within the marketing object container" (Claim 28) can be "inferred by the requirement for a relative match between the consumer profile and the consumer scale," (current office action, page 18). The relative match requirement does not seem to have a time element, a marketing attribute capable of characterizing a marketing object, or a marketing attribute selected to characterize the marketing object container as having a timing or priority. The Applicants respectfully request that the Examiner explain this inference or allow Claim 28.

*Regarding Claim 29:*

On page 18 of the current office action the Examiner correctly notes that "[n]either Dedrick, Angles et al., nor Kurtzman explicitly disclose the timing or priority of display of a marketing object includes a time period for displaying the marketing object." While the Examiner provides "official notice" regarding some aspects of timing a display this notice does not discuss timing that includes use of a "marketing attribute to characterize the marketing object container as having a time or priority..." as recited in Claim 29. The Applicants, therefore, request that Claim 29 be allowed.

*Regarding Claim 30:*

In response to the Examiner's rejection of Claim 30 under §112 the last line of Claim 30 is amended to read "automatically associating the selected marketing attribute with the first marketing object container." However, the Applicants respectfully traverse the Examiner's rejection under §112 and point out that the antecedent basis of "the marketing object container" is not ambiguous.

The arguments made above with respect to the §103 rejections of Claims 1, 22, 23 and 24 also apply to Claim 30.

*Regarding Claim 31:*

The arguments made above with respect to Claim 1 also apply to Claim 31.

*Regarding Claim 32:*

Claim 32 is dependent on Claim 30 and recites "further including selecting a style template responsive to the marketing attribute, and identifying a visitor to the web page, after selecting the style template." In rejecting this claim the Examiner cites (on page 19) the publisher/advertiser 18 of Dedrick and Angles et al. However, the publisher/advertiser 18 of Dedrick is a means for generating content in a variety of formats and does not appear to use a *marketing attribute* to select a template, as recited in Claim 32. The Examiner further states, on the bottom of page 19, "...Angles et al. discloses the functionality that encompasses selecting a style template responsive to the marketing attribute and identifying a visitor to the web page, after selecting the style template (fig. 1 ...; col. 7 line 43 – col. 8 line 67)." However the Applicants are unable to find any teachings of selecting a style template response to *any* type of attribute in the cited materials. In addition, as has been pointed out above, Angles et al. does not teach marketing attributes as specified in Claim 32.

Further, the Applicants are not able to find any teaching in Angles et al. that could be interpreted to represent the *timing aspects* of Claim 32. Specifically, Applicants are not able to find any teaching of “identifying a visitor to the web page, *after* selecting the style template.” The Applicants respectfully request that the Examiner more precisely point out these teachings or allow Claim 32. In Claim 32 the claimed marketing attribute is used before identification of a visitor. This would be impossible if the marketing attribute were the user attribute of Dedrick, Angles et al. or Kurtzman, II et al. because a user attribute would not be available until after the visitor is identified. The methods taught by Dedrick, Angles et al. and Kurtzman, II et al. teach away from using a marketing attribute prior to identification of a visitor.

10 *Regarding Claim 33:*

Claim 33 is dependent on Claim 30 and recites, “wherein the marketing campaign is an on sale marketing campaign.” The Applicants traverse the Examiner’s opinion that “Claim 33 ... contains essentially the same limitation as claims 23 and 24.” In fact, “on sale marketing campaign” is not specifically discussed in either of Claims 23 or 24. The Applicants respectfully point out that a rejection of Claim 33 must include consideration all of its elements and limitations. Based on the incomplete rejection of Claim 33, the Applicants request that the finality of the office action be withdrawn and that Claim 33 be allowed.

*Regarding the Drawings:*

In the current office action the Examiner has indicated that the drawings filed on 13 January 200 are objected to (cover sheet). However, the Examiner provided no further information pointing out the basis for this new objection. The Applicants respectfully request that the objection to the drawings be withdrawn or explained in detail.

### CONCLUSION

Based on the above amendments and remarks, Applicants respectfully request the entry of the above amendments and submit that, as amended, all pending claims are in condition for allowance. Thus, the claims of the present application are believed to be allowable based on Applicants' above amendments and remarks. Upon entry of the above amendments and remarks, Applicants submit that the application is in condition for allowance, and respectfully request the issuance of a Notice of Allowability.

If the Examiner has any questions or would like to discuss this case, he is invited to contact the Applicants' undersigned representative at the number given below.

Respectfully submitted,

Chun R. Xia et al.

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By: 

Steven M. Colby  
Reg. No. 50,250  
Carr & Ferrell LLP  
2200 Geng Road  
Palo Alto, CA 94303  
Phone: (650) 812-3400  
Fax: (650) 812-3444